

### C. Remarks

The claims are 1-8, with claims 1 and 4 being independent. Claims 1 and 4 have been amended to exclude a hydrogen atom as a possible choice for  $R_1$  and to improve their form. No new matter has been added. Reconsideration of the present claims is expressly requested.

Claims 4-8 have been withdrawn from further consideration by the Examiner as they are drawn to non-elected subject matter. Rejoinder of these claims is hereby respectfully requested.

Claims 1-3 stand rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent Application Publication No. 2002/0034656 (Thompson). The grounds of rejection are respectfully traversed.

In the Office Action, the Examiner alleges that Thompson discloses  $L_3M$  structure with the ligands as recited in Fig. 49. The Examiner premises this conclusion on the fact that Thompson does not disclose that the ligands in Fig. 49 are unsuitable for an  $L_3M$  compound. Applicants respectfully submit, however, that this is not a correct standard for setting forth a case of anticipation.

Even if Thompson does not teach that the ligands in Fig. 49 are unsuitable for a  $L_3M$  compound, this does not necessarily mean that Thompson discloses a  $L_3M$  compound with Fig. 49 L ligands. The burden is on the Examiner to show that Thompson teaches the claimed structure. A showing that Thompson does not teach away from the claimed structure is not sufficient.

As previously mentioned by Applicants, the ligands in Fig. 49 are clearly limited to the  $L_2MX$  compound, as shown in paragraph [0109]. These ligands, specifically vinylpyridine ligands, are not mentioned elsewhere in Thompson. The disclosure in paragraph [0052] lends no further credence to the assertion that the ligands in Fig. 49 are applicable to compounds other than  $L_2MX$ . Specifically, paragraph [0052] unequivocally shows that ligand X does participate in the emission, and there is no disclosure or suggestion anywhere in Thompson

to replace the X ligand in the  $L_2MX$  compound with another L. Thus, any modification of the  $L_3M$  structure using the ligands from Fig. 49 or substitution of X by another ligand L in the  $L_2MX$  compound is impermissible hindsight based on Applicants' disclosure.

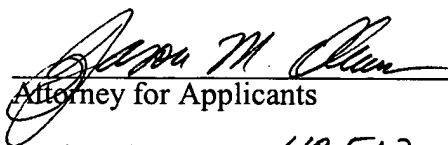
The  $L_3M$  compound in Thompson clearly has ligands different from both Fig. 49 and the presently claimed invention. Specific examples of  $L_3M$  compounds are  $Ir(ppy)_3$  and derivatives thereof (Thompson, Examples 2-5). One such metal coordination compound ( $Ir(ppy)_3$ ) is employed in Comparative Example 1 of the present application. As indicated therein,  $Ir(ppy)_3$  provides a shorter luminescence half-life than the presently claimed metal coordination compounds.

Nevertheless, even if assumed, arguendo, that Thompson teaches that the  $L_3M$  compound can have the vinylpyridine ligand shown in Fig. 49, Thomson still cannot affect the patentability of the presently claimed invention. Since claims 1 and 4 have been amended to exclude a hydrogen atom as a possible choice for  $R_1$ , the vinylpyridine ligand in Thompson's Fig. 49 is clearly outside the scope of the present claims.

Wherefore, Applicants respectfully request withdrawal of the outstanding rejection and passage to issue of the present case.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

  
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Attorney for Applicants  
Registration No. 48,512

FITZPATRICK, CELLA, HARPER & SCINTO  
30 Rockefeller Plaza  
New York, New York 10112-3801  
Facsimile: (212) 218-2200